

AMENDED IN SENATE APRIL 28, 2009

AMENDED IN SENATE MARCH 10, 2009

SENATE BILL

No. 93

Introduced by Senator Kehoe

January 22, 2009

An act to amend Section 33445 of, *and to add Sections 33445.1 and 33505 to*, the Health and Safety Code, relating to redevelopment.

LEGISLATIVE COUNSEL'S DIGEST

SB 93, as amended, Kehoe. Redevelopment: payment for land or buildings.

The Community Redevelopment Law—~~requires~~ *authorizes* a redevelopment agency, *with the consent of the legislative body*, to ~~make specified findings if the agency pays~~ *pay* all or a part of the value of the land for, and the cost of the installation and construction of, any building, facility, structure, or other improvement that is publicly owned either within or without the project area *if the legislative body makes specified determinations*. These determinations by the agency and the local legislative body are final and conclusive. ~~An agency is authorized to enter into a contract with the community or other public corporation when the value of the land or the cost of the installation and construction of the building, facility, structure, or other improvement, or both, has been, or will be, paid or provided for initially by the community or other public corporation, and the agency agrees to reimburse, the community or other public corporation. An agency may contract with the community when the land has been or will be acquired by, or the cost of the installation and construction of the building, facility, structure, or other improvement has been paid by, a parking authority, joint powers entity, or other public corporation to provide a building, facility, structure, or~~

~~other improvement that has been or will be leased to the community. Existing law requires the agency, with respect to the financing, acquisition, or construction of a transportation, collection, and distribution system and related peripheral parking facilities, in a county with a population of 4 million persons or more, to enter into an agreement with the rapid transit district that includes the county, or a portion thereof, under which the rapid transit district is required to be given specified responsibilities.~~

~~This bill would require instead authorize a redevelopment agency, with the consent of the legislative body, to make specified findings, based on substantial evidence in the record, if the agency pays pay all or a part of the value of the land for, and the cost of the installation and construction of, any building, facility, structure, or other improvement that is publicly owned either within or without and is located inside or contiguous to, as defined, the project area if the legislative body makes specified findings based on substantial evidence in the record. These findings would not be final and conclusive. An agency would no longer be authorized to enter into a contract with a public corporation other than the community for the value of the land or the cost of the installation and construction of the building, facility, structure, or other improvement, or both. The bill would provide that an agency may contract with the community prior to January 1, 2010, when the land has been or will be acquired by, or the cost of the installation and construction of the building, facility, structure, or other improvement has been paid by, a parking authority, joint powers entity, or other public corporation to provide a building, facility, structure, or other improvement that has been or will be leased to the community. The bill would delete the requirement that the agency, with respect to the financing, acquisition, or construction of a transportation, collection, and distribution system and related peripheral parking facilities, in a county with a population of 4 million persons or more, enter into an agreement with the rapid transit district that includes the county, or a portion thereof, under which the rapid transit district is required to be given specified responsibilities. The bill would authorize an agency to pay for all or part of the value of the land for, and the cost of the installation and construction of, any building, facility, structure, or other improvement that is publicly owned and is partially located in the project area, but extends beyond the project area's boundaries, if the legislative body makes specified findings.~~

The bill would also authorize an agency, with the consent of the legislative body, to pay all or a part of the value of the land for, and the cost of the installation and construction of any building, facility, structure, or other improvement that is publicly owned and is located outside and not contiguous to the project area, but is located within the community, if the legislative body makes specified findings based on substantial evidence in the record. The bill would prohibit an agency from paying for the normal maintenance or operations of buildings, facilities, structures, or other improvements that are publicly owned.

The bill would also prohibit the agency and legislative body from authorizing or approving the settlement of specified judicial actions that contest the validity of the adoption or amendment of a redevelopment plan if the settlement requires the expenditure of funds outside the project area unless the agency and the legislative body have first held a public hearing on the proposed settlement, as specified. The bill would provide specified notice requirements and procedures for the public hearing, and require that copies of the proposed settlement be made available for public inspection and copying not later than the first date of publication of the public notice.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 33445 of the Health and Safety Code is
- 2 amended to read:
- 3 33445. (a) Notwithstanding Section 33440, an agency may,
- 4 with the consent of the legislative body, pay all or a part of the
- 5 value of the land for and the cost of the installation and construction
- 6 of any building, facility, structure, or other improvement that is
- 7 publicly owned ~~either within or without and is located inside or~~
- 8 ~~contiguous to the project area, if the legislative body finds, based~~
- 9 ~~on substantial evidence in the record, all of the following:~~
- 10 ~~(1) Significant blight remains within the project area.~~
- 11 ~~(2) The blight cannot be eliminated without the acquisition of~~
- 12 ~~the land or the installation and construction of the building, facility,~~
- 13 ~~structure, or other improvement that is publicly owned.~~
- 14 *(1) The acquisition of land or the installation and construction*
- 15 *of the buildings, facilities, structures, or other improvements that*

1 *are publicly owned benefits the project area by helping to eliminate*
2 *blight within the project area.*

3 ~~(3)~~

4 (2) That no other reasonable means of financing the *acquisition*
5 *of the land or installation or construction of the* buildings, facilities,
6 structures, or other improvements *that are publicly owned*, are
7 available to the community, including, but not limited to, general
8 obligation bonds, revenue bonds, special assessment bonds, and
9 bonds issued pursuant to the Mello-Roos Community Facilities
10 Act of 1982 (Chapter 2.5 (commencing with Section 53311) of
11 Part 1 of Division 2 of Title 5 of the Government Code).

12 ~~(4)~~

13 (3) That the payment of funds for the acquisition of land or the
14 cost of buildings, facilities, structures, or other improvements that
15 are publicly owned is consistent with the implementation plan
16 adopted pursuant to Section 33490.

17 ~~(b) The acquisition of land and~~

18 (4) *That the acquisition of land or the installation or construction*
19 *of each building, facility, structure, or improvement that is publicly*
20 *owned shall be* is provided for in the redevelopment plan.

21 ~~(e) An agency~~

22 (b) A *redevelopment agency* shall not pay for the normal
23 maintenance or operations of buildings, facilities, structures, or
24 other improvements that are publicly owned. Normal maintenance
25 or operations do not include the construction, expansion, addition
26 to, or reconstruction of, buildings, facilities, structures, or other
27 improvements that are publicly owned otherwise undertaken
28 pursuant to this section.

29 ~~(d)~~

30 (c) (1) When the value of the land or the cost of the installation
31 and construction of the building, facility, structure, or other
32 improvement *that is publicly owned*, or both, has been, or will be,
33 paid or provided for initially by the community *or other public*
34 *corporation*, the agency may enter into a contract with the
35 community ~~to reimburse the community or other public~~
36 *corporation under which it agrees to reimburse the community or*
37 *other public corporation* for all or part of the value of the land or
38 all or part of the cost of the building, facility, structure, or other
39 improvement *that is publicly owned*, or both, by periodic payments
40 over a period of years.

1 (2) The obligation of the agency under the contract shall
2 constitute an indebtedness of the agency for the purpose of carrying
3 out the redevelopment project for the project area, and the
4 indebtedness may be made payable out of taxes levied in the project
5 area and allocated to the agency under subdivision (b) of Section
6 33670 or out of any other available funds.

7 ~~(e) Prior to January 1, 2010, in~~

8 (d) In a case where the land has been or will be acquired by, or
9 the cost of the installation and construction of the building, facility,
10 structure, or other improvement *that is publicly owned* has been
11 paid by, a parking authority, joint powers entity, or other public
12 corporation to provide a building, facility, structure, or other
13 improvement that has been or will be leased to the community,
14 the contract may be made with, and the reimbursement may be
15 made payable to, the community.

16 ~~(f) With respect to the financing, acquisition, or construction~~
17 ~~of a transportation, collection, and distribution system and related~~
18 ~~peripheral parking facilities, in a county with a population of~~
19 ~~4,000,000 persons or more, the agency shall, in order to exercise~~
20 ~~the powers granted by this section, enter into an agreement with~~
21 ~~the rapid transit district that includes the county, or a portion~~
22 ~~thereof, in which agreement the rapid transit district shall be given~~
23 ~~all of the following responsibilities:~~

24 ~~(1) To participate with the other parties to the agreement to~~
25 ~~design, determine the location and extent of the necessary~~
26 ~~rights-of-way for, and construct, the transportation, collection, and~~
27 ~~distribution systems and related peripheral parking structures and~~
28 ~~facilities:~~

29 ~~(2) To operate and maintain the transportation, collection, and~~
30 ~~distribution systems and related peripheral parking structures and~~
31 ~~facilities in accordance with the rapid transit district's outstanding~~
32 ~~agreements and the agreement required by this paragraph:~~

33 ~~(g)~~

34 (e) (1) Notwithstanding any other authority granted in this
35 section, an agency shall not pay for, either directly or indirectly,
36 with tax increment funds the construction, including land
37 acquisition, related site clearance, and design costs, or rehabilitation
38 of a building that is, or that will be used as, a city hall or county
39 administration building.

(2) This subdivision shall not preclude an agency from making payments to construct, rehabilitate, or replace a city hall if an agency does any of the following:

(A) Allocates tax increment funds for this purpose during the 1988–89 fiscal year and each fiscal year thereafter in order to comply with federal and state seismic safety and accessibility standards.

(B) Uses tax increment funds for the purpose of rehabilitating or replacing a city hall that was seriously damaged during an earthquake that was declared by the President of the United States to be a natural disaster.

(C) Uses the proceeds of bonds, notes, certificates of participation, or other indebtedness that was issued prior to January 1, 1994, for the purpose of constructing or rehabilitating a city hall, as evidenced by documents approved at the time of the issuance of the indebtedness.

(f) As used in this section, “contiguous” means that the parcel on which the building, facility, structure, or other improvement that is publicly owned is located shares a boundary with the project area or is separated from the project area only by a public street or highway, flood control channel, waterway, railroad right-of-way, or similar feature.

(g) Notwithstanding Section 33445.1, an agency may pay for all or part of the value of the land for and the cost of the installation and construction of any building, facility, structure, or other improvement that is publicly owned and is partially located in the project area, but extends beyond the project area’s boundaries, if the legislative body makes the findings required by subdivision (a).

SEC. 2. Section 33445.1 is added to the Health and Safety Code, to read:

33445.1. (a) Notwithstanding Section 33440, an agency may, with the consent of the legislative body, pay all or a part of the value of the land for and the cost of the installation and construction of any building, facility, structure, or other improvement that is publicly owned and is located outside and not contiguous to the project area, but is located within the community, if the legislative body finds, based on substantial evidence in the record, all of the following:

(1) Significant blight remains within the project area.

1 (2) *The acquisition of the land or the installation or construction*
2 *of the buildings, facilities, structures, or other improvements that*
3 *are publicly owned benefits the project area by helping to eliminate*
4 *blight within the project area.*

5 (3) *No other reasonable means of financing the acquisition of*
6 *the land or the installation or construction of the buildings,*
7 *facilities, structures, or other improvements that are publicly*
8 *owned, are available to the community, including, but not limited*
9 *to, general obligation bonds, revenue bonds, special assessment*
10 *bonds, or bonds issued pursuant to the Mello-Roos Community*
11 *Facilities Act of 1982 (Chapter 2.5 (commencing with Section*
12 *53311) of Part 1 of Division 2 of Title 5 of the Government Code).*

13 (4) *The payment of funds for the acquisition of land or the cost*
14 *of buildings, facilities, structures, or other improvements that are*
15 *publicly owned is consistent with the implementation plan adopted*
16 *pursuant to Section 33490.*

17 (5) *The acquisition of land and the installation of each building,*
18 *facility, structure, or improvement that is publicly owned is*
19 *provided for in the redevelopment plan.*

20 (b) *An agency shall not pay for the normal maintenance or*
21 *operations of buildings, facilities, structures, or other*
22 *improvements that are publicly owned. Normal maintenance or*
23 *operations do not include the construction, expansion, addition*
24 *to, or reconstruction of, buildings, facilities, structures, or other*
25 *improvements that are publicly owned otherwise undertaken*
26 *pursuant to this section.*

27 SEC. 3. *Section 33505 is added to the Health and Safety Code,*
28 *to read:*

29 33505. (a) *The agency and legislative body shall not authorize*
30 *or approve the settlement of any judicial action specified in Section*
31 *33501 that contests the validity of the adoption or amendment of*
32 *a redevelopment plan if the settlement requires the expenditure of*
33 *funds outside the project area unless the agency and the legislative*
34 *body have first held a public hearing on the proposed settlement*
35 *pursuant to this section.*

36 (b) *Notice of the public hearing shall be published once a week*
37 *for two successive weeks in a newspaper of general circulation in*
38 *the community. Notice of the public hearing shall be posted in at*
39 *least five prominent locations inside the project area for at least*
40 *two weeks before the hearing. Notice of the hearing shall be mailed*

- 1 *by first class mail to the project area committee, if any, and to any*
- 2 *other persons or organizations who have filed a written request*
- 3 *for public notice.*
- 4 *(c) Copies of the proposed settlement shall be available for*
- 5 *public inspection and copying not later than the first date of*
- 6 *publication of the public notice.*